

REMARKS

Claims 1 - 18 are in the application. Claims 7 -18 were previously withdrawn from consideration. Claims 1 - 3 and 6 were previously presented and claims 4 and 5 remain unchanged from the original versions thereof. Claims 1 and 6 are the independent claims herein.

Claims 1 and 6 were previously amended in an Amendment and Response (mailed to the Office August 1, 2005) that was responsive to a Non-Final Office Action dated April 4, 2005. Claims 1 and 6 were amended to address matters of form relating to a rejection under 35 USC 112, 2nd paragraph. That is, claims 1 and 6 were amended to overcome the rejection under 35 USC 112, 2nd paragraph. Applicant respectfully submits that the amendments did not necessitate a new prior art rejection.

MPEP 2144.03 states, "If the examiner adds a reference in the next Office action after applicant's rebuttal, and the newly added reference is added only as directly corresponding evidence to support the prior common knowledge finding, and it does not result in a new issue or constitute a new ground of rejection, the Office action may be made final. If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is made final. If the newly cited reference is added for reasons other than to support the prior common knowledge statement and a new ground of rejection is introduced by the examiner that is not necessitated by applicant's amendment of the claims, the rejection may not be made final. See MPEP § 706.07(a)."

In light of the fact that the previous amendments to claims 1 and 6 were to address the rejection under 112, 2nd paragraph (not the 35 USC 103(a) prior art rejection), MPEP 2144.03, and the current Office Action's statement that "Applicant's August 4, 2005 REMARKS have been reviewed, but are moot with regards to the new art rejection" (emphasis added), Applicant respectfully requests the reconsideration and withdrawal of the finality of the Office Action.

No new matter has been added to the application as a result of the present Response. Reconsideration and further examination are respectfully requested.

Claim Rejections Under 35 USC § 103(a)

Claims 1-6 were rejected as being unpatentable over Terada et al., U.S. Patent No. 5,931,946 (hereinafter, Terada). This rejection is respectfully traversed.

Regarding the Official Notice that audit models having user-viewable standards, procedures, documentation, and reporting requirements associated with real estate property are common knowledge in the art, Applicant respectfully traverses the Official Notice. Further, Applicant submits that the noticed facts are not considered to be common knowledge or well-known in the art since the Examiner has failed to provide any logical reasoning or explicit basis on which the Examiner regards the matter as fact under Official Notice. (See MPEP 2144.03) The Examiner merely concludes the alleged Official Notice statements are fact. The Examiner does not provide any documentary evidence to support the alleged facts under the Official Notice.

Accordingly, Applicant requests the reconsideration and withdrawal of the Official Notice, or in the event the rejection is maintained, documentary evidence (e.g., references, affidavit, declaration, etc.) to support the Official Notice.

The Examiner cites and relies upon Terada for disclosing a computer network for deploying an external audit program to a plurality of entities to ensure that previous deployed programs are compliant with set criteria. The Examiner further acknowledges that Terada does not disclose net operating income values including a net operating audit model.

Applicant respectfully notes that Tarada is directed to a network system having external/internal security and connected to the network through corresponding repeating installations. Terada also discloses that the network system is adapted to audit the vulnerability of a computer. (See Terada, Abstract, and col. 1. ln. 5-10) Thus, it is clear that the computer system of Terada is not related to a financial audit related to NOI values associated with real estate. It is clear that the audits disclosed in Terada

(computer vulnerability audit) and the claims (NOI audit) are not the same, similar, or even suggestive of each other. Although the Terada system includes a number of computers, there is no disclosure or suggestion therein of an accounting audit related to a net operating income (NIO).

Thus, it is clear that Terada does not in fact disclose that for which it is cited and relied upon for disclosing since the Terada audit program is not the same as or even suggestive of the claimed audit program.

A review of prosecution history of the present application indicates that the Examiner has made a number of statements and reliances based on "Official Notice". For example, the Examiner has taken Official Notice regarding an entity using a plurality of audit firms, e.g., Big 8 (now informally known as the Big 6 accounting firms) each operating independently of each other and having a reporting relationship with a common investment entity, for such purposes a to underwriting a summary reports (See Office Action date April 15, 2004 and October 19, 2004). The Examiner has also previously cited and relied upon Official Notice regarding "net operating income values and audit reports completed under standards, procedures, documentation and reporting requirements associated therewith" (See Office Action date April 4, 2005).

However, the Examiner has failed to demonstrate any logical reasoning how and/or why knowledge of Big 6 accounting firms that provide underwriting and summary reports and the knowledge of net operating income values and audit reports completed under standards, procedures, documentation and reporting requirements associated therewith disclose, suggest, or provide motivation for modifying the cited and relied upon Terada to provide a method comprising,

deploying a respective copy of a computer program to each of a plurality of audit firms, each of the audit firms operating independently of each other and having a reporting relationship with a common investment entity, each of the plurality of audit firms conducting an audit of a respective real estate property and generating an associated set of current net operating income (NOI) values, said computer program including an interactive global NOI audit model and user-viewable standards, procedures, documentation, and reporting requirements, said computer program operating to receive a respective first input data in connection

with the respective real estate property and to generate a respective current NOI audit report associated with said respective real estate property, each of the audit firms having a respective computer system comprising a plurality of computers, said deploying resulting in each of the computer systems executing said computer program;

using at least some of said computer systems to input said respective first input data by at least some of the audit firms to said computer program;

receiving by the investment entity a plurality of current NOI audit reports, each of said reports being generated by execution of a respective copy of said computer program on a respective one of said computer systems and reflecting said received respective first input data, wherein all said received current NOI audit reports have been developed by substantially identical audit practices resulting from the audit firms using said interactive global NOI audit model and user-viewable standards, procedures, documentation, and reporting requirements (Emphasis added, See claim 1)

Accordingly, it is not seen as obvious from the cited and relied upon Terada and the alleged Official Notice that a deployed copy of a computer program would be used to conduct an audit of a respective real estate property, generate the claimed associated set of NOI income values, receive a respective first input data, using at least some of the computer systems to input the respective first input data by at least some of the audit firms to the computer program, and receive by the investment entity a plurality of current NOI audit reports, each of the reports reflecting the received respective first input data.

It is respectfully submitted that the pending claims state specific actions that are not disclosed or even suggested by the cited and relied upon Terada.

Applicant also respectfully notes that the Office Action is silent regarding other patentable aspects of the claimed invention. For example, the Office Action fails to address aspects such as the claimed "computer program including an interactive global NOI audit model" (See claim 1). This and other aspects of the claims appear to have been ignored by the Office Action dated October 19, 2005.


Accordingly, Applicant respectfully submits that claim 1 and 6 are patentable over the cited and relied upon Terada and Official Notice. Further, claims 2 - 5 depend from claim 1. Therefore, Applicant respectfully submits that claims 1-6 are patentable over the cited and relied upon Terada and Official Notice under 35 USC 103(a).

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date


Randolph P. Calhoun
Registration No. 45,371
Buckley, Maschoff & Talwalkar LLC
Five Elm Street
New Canaan, CT 06840
(203) 972-5985